



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Program Manager
Disease Prevention/Control,
(S0844U), Department of Health

Appointment Waiver

CSC Docket No. 2018-2078

ISSUED: April 6, 2018 (AMR)

The Department of Health requests permission not to make an appointment from the July 17, 2017 certification for Program Manager Disease Prevention/Control, (S0844U).

The record reveals that on May 31, 2016, the appointing authority provisionally appointed Twanda Walker-Valery, pending open competitive examination procedures, to the subject title. An examination was announced with a closing date of November 16, 2016. The examination resulted in an eligible list of 6 individuals, which promulgated on July 13, 2017 and expires on July 12, 2019. It is noted that Walker-Valery is no longer serving as a Program Manager Disease Prevention/Control and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. Specifically, it explained that the employee accepted another position in a different program within the Department of Health and the program has decided not to backfill this position.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$8,295. Although provided the opportunity, the appointing authority did not provide any reasons why the costs of the selection process should not be assessed. Agency records indicate

that currently there are no individuals in the subject title with the appointing authority.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as the result of the provisional appointment of Walker-Valery. However, after a complete certification was issued, the appointing authority requested an appointment waiver due to Walker-Valery no longer serving in the subject title and the decision not to backfill the position. Therefore, since the provisional is no longer serving in the subject title and there are no employees serving in the subject title with the appointing authority, there is sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that it no longer needs to maintain the position of Program Manager Disease Prevention/Control after it requested an examination for the subject title does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$8,295 for the costs of the selection process.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$8,295 to be paid within 30 days of the issuance of this order.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4th DAY OF APRIL , 2018



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